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10/550,131	06/21/2006	Zhicheng Shao	NFE-104	1300
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/550,131

## Applicant(s)

SHAO, ZHICHENG

## Examiner

KET D. DANG

## Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-14 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,15-23 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/21/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Election/Restrictions***

2. Applicant's election with traverse of Species II, claim 4-14 in the reply filed on January 7, 2011 is acknowledged. The traversal is on the ground(s) that where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or *more* of the same or corresponding special technical features. This is not found persuasive because there is no technical relationship among those inventions involving one or *more* of the same or corresponding special technical features that are known in the art, as can be seen in the example found in Lambert (US Patent No. 1,774,927).

The requirement is still deemed proper and is therefore made FINAL.

As directed by the response to election/restriction: Species I, claims 1-2 have been withdrawn, and Species III, claims 15-23 and 25 have been withdrawn, and claims 3 and 24 have been canceled. Thus, claims 4-14 are presently pending in this application.

***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it repeats information given in the title, the phrase "the invention relates to...", and the abstract is exceeded more than 150 words (i.e. specifically 176). Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 13 recite the limitation "the inner bottom" in the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the circuit of the electric heater" at line 5 in the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "an inner bottom" at lines 2-3 renders the claim indefinite. It is unclear for whether this inner bottom is the same as the one recited at lines 2-3 in claim 7. If it is so, then "an" should be replaced with "the" or "said". If it is not, then essential structural cooperative relationships between the two are suggested.

Claim 10 recites the limitations "the top metal" at lines 3, "the circuit of the electric heater" at line 6, and "the tilting arm" at lines 7-8 in the claim. There are insufficient antecedent basis for these limitations in the claim.

Claim 11 recites the limitation "an outer bottom" at lines 2-3 renders the claim indefinite. It is unclear for whether this outer bottom is the same as the one recited at lines 2-3 in claim 6. If it is so, then "an" should be replaced with "the" or "said". If it is not, then essential structural cooperative relationships between the two are suggested.

Claim 12 recites the limitation "the circuit of the electric heater" at lines 5-6 in the claim. There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 13 and 14, an electrothermal jug "according to claim 4, 5 or 6" or "according to claims 4, 5 or 6", respectively, renders the claim indefinite. It is unclear and indefinite to which claim is referred to. Further clarification is required in order and to provide clear and consistent language throughout the claims.

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 4-5 and 13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 7, and 13 of Shao U.S. Patent No. 7,661,354 B in view of Lambert (US 1774927).

Regarding claim 4, Shao '354 discloses an electrothermal jug comprising a body, an electric heater on the body, wherein an inner container is provided on the bottom of the body, a funnel is provided on the up-port of the inner container, a filtrating down-layer is arranged in the funnel, and a filtrating up-layer is arranged on the up-port (claims 1 and 7).

Claims 1, 5, 7, and 13 of Shao'354 discloses all of the limitations of the claimed invention, except for wherein the electric heater is disposed on the inner bottom of the inner container; and wherein the filtrating up-layer is disposed on an overlay of a cover covered on the up-port of the inner container.

However with respect to claims 5 and 13, wherein the electric heater is disposed on the inner bottom of the inner container; and wherein the filtrating up-layer is disposed on an overlay of a cover covered on the up-port of the inner container are known in the art. Lambert, for example, teaches wherein the electric heater 8 (fig. 1) is disposed on the inner bottom of the inner container 12/15 (fig. 1) (page 1, lines 97 – page 2, lines 1); wherein the filtrating up-layer 20 (fig. 1) is disposed on an overlay of a cover 21 (fig. 1) covered on the up-port of the inner container 15/12 (fig. 1). Lambert further teaches such a configuration provides a means to obtain a high percentage and recovery of caffeine and a low percentage of tannin (page 1, lines 65-68). It would have been obvious to one of ordinary skill in the art to modify claims 1, 5, 7, and 13 of Shao '354 with wherein the electric heater is disposed on the inner bottom of the inner container; and wherein the filtrating up-layer is disposed on an overlay of a cover covered on the up-port of the inner container of Lambert in order to obtain a high percentage and recovery of caffeine and a low percentage of tannin.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 4-5 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Lambert (US 1774927).

Regarding claim 4, Lambert discloses an electrothermal jug comprising a body 1 (fig. 1), an electric heater on the body 8 (fig. 1), wherein an inner container 12/15 (fig. 1) is provided on the bottom of the body 3 (fig. 1), a funnel 18 (fig. 1, i.e. a tube) is provided on the up-port of the inner container 12/15 (fig. 1), a filtrating down-layer 28 (fig. 1) is arranged in the funnel 18 (fig. 1), and a filtrating up-layer 20 (fig. 1) is arranged on the up-port (page 2, line 50, lines 90 – page 2, lines 56).

With respect to claim 5, Lambert discloses wherein the electric heater 8 (fig. 1) is disposed on the inner bottom of the inner container 12/15 (fig. 1) (page 1, lines 97 – page 2, lines 1).

With respect to claim 13, Lambert discloses wherein the filtrating up-layer 20 (fig. 1) is disposed on an overlay of a cover 21 (fig. 1) covered on the up-port of the inner container 15/12 (fig. 1).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (US 1774927) in view of Khaja (US 3585921).



Regarding claims 6-7, Lambert discloses all of the limitations of the claimed invention as set forth above, except for wherein an auxiliary electric heater is provided on an outer bottom between the body and the inner container; and a dry frying thermostat. (i.e. a thermostat that detects or senses the coffee temperature against the pre-setting temperature during the brewing operation).

However, an auxiliary electric heater is provided on an outer bottom between the body and the inner container; and thermostat is known in the art. Khaja, for example, teaches an auxiliary electric heater 57 (fig. 4) is provided on an outer bottom (i.e. just below the bottom wall (23) between the body 22 (fig. 4) and the inner container (col. 6, line 18); thermostat 50 (fig. 4) (col. 6, lines 3, i.e. the thermostat that switches off when it reaches the pre-setting desired coffee temperature).

Khaja further teaches such a configuration provides a means to maintain the coffee at a desirable elevated drinking temperature (col. 6, lines 21-22). It would have been obvious to one of ordinary skill in the art to modify Lambert with an auxiliary electric heater of Khaja in order to maintain the coffee at a desirable elevated drinking temperature.

12. Claims 8 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (US 1774927) in view of Khaja (US 3585921) as applied to claims 6-7 above, and further in view of Weber (US 3804635).

Regarding claims 8 and 11-12, Lambert in view of Khaja discloses all of the limitations of the claimed invention as set forth above, except for wherein a heat

preservation thermostat which is provided with a dry frying temperature or a heat preservation temperature sensitive bimetallic strip attached to the bottom, a fixed contact plate and a movable contact plate connected in series in the circuit of the electric heater, a dry frying crown bar or a heat preservation crown bar.

However, a heat preservation thermostat being provided with the temperature sensitive bimetallic strip attached to the bottom, a fixed contact plate and a movable contact plate connected in series in the circuit of the electric heater, a bar is known in the art. Weber, for example, teaches a heat preservation thermostat acts as a bimetallic strip 92 (fig. 3) attached to the bottom (see figure 3) (i.e. the heat preservation thermostat is same as the bimetallic strip (92) which disengages from mechanical means in response to the predetermined temperature.), a fixed contact plate 93 (fig. 3) and a movable contact plate 166 (fig. 3) connected in series in the circuit of the electric heater 32 (fig. 3), a bar 158 (fig. 7, i.e. a rod or a pin) (col. 8, lines 25-64). Weber further teaches such a configuration provides a means to respond to the temperature of the liquid being heated and the heater being generated (col. 5, lines 67 - col. 6, line 1). It would have been obvious to one of ordinary skill in the art to modify Lambert in view of Khaja with the features above of Weber in order to respond to the temperature of the liquid being heated.

13. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (US 1774927) in view of Khaja (US 3585921) as applied to claims 6-7 above, and further in view of Komazaki et al. (US 3662155).

Regarding claims 9-10, Lambert in view of Khaja discloses all of the limitations of the claimed invention as set forth above, except for wherein an over temperature thermostat is disposed on an inner bottom; wherein the over temperature thermostat is provided with a spring plate riveted onto the top sheet metal, a rivet with low-temperature-melting-point riveted onto the sheet metal, a fixed contact plate, a movable contact plate connected in series in the circuit of the electric heater, a fuse crown bar disposed between the movable contact plate and the tilting arm of the spring plate.

However, thermostat is disposed on a bottom; wherein the thermostat is provided with a spring clamp, a fixed contact plate, a movable contact plate connected in series in the circuit of the electric heater, a bar disposed between the movable contact plate and the bimetal is known in the art. Komazaki et al., for example, teaches thermostat is disposed on a bottom (abstract); wherein the thermostat is provided with a spring clamp 6 (fig. 1), a fixed contact plate, a movable contact plate 9 (fig. 1) connected in series in the circuit of the electric heater, a bar 7 (fig. 1) disposed between the movable contact plate 9 (fig. 1) and the bimetal 6 (fig. 1) (col. 2, lines 16-21; col. 3, lines 14-26). Komazaki et al. further teaches such a configuration provides an automatic temperature control means for effecting its temperature control (col. 1, lines 8-10). It would have been obvious to one of ordinary skill in the art to modify Lambert in view of Khaja with the features above of Komazaki et al. in order to provide an automatic temperature control means for effecting its temperature control.

14. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (US 1774927) in view of Forshee (US 1477340).

Regarding claim 14, Lambert discloses all of the limitations of the claimed invention as set forth above, except for wherein the inner bottom extends downwardly to form a step-like shape with the outer bottom.

However, wherein the inner bottom extends downwardly to form a step-like shape with the outer bottom is known in the art. Forshee, for example, teaches wherein the inner bottom (17) extends downwardly to form a step-like shape (16) with the outer bottom (10) (page 1, lines 44-52). Forshee further teaches such a configuration provides a means to secure to the bottom of the outer container (page 1, lines 18-19). It would have been obvious to one of ordinary skill in the art to modify Lambert with wherein the inner bottom extends downwardly to form a step-like shape with the outer bottom of Forshee in order to secure to the bottom of the outer container.

#### ***Prior Art***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Henn (US 5046409) discloses machine for brewing hot beverages. And Pasbrig (US 5281785) discloses an apparatus for preparing beverages in a microwave oven.

***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KET D. DANG whose telephone number is (571) 270-7827. The examiner can normally be reached on Monday - Friday, 7:30 - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoang Tu can be reached on (571) 272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KET D DANG/  
Examiner, Art Unit 3742  
March 18, 2011

/Stephen J Ralis/  
Primary Examiner, Art Unit 3742